IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 1103 of 2005

Between:

1 Duddupudi Narayana Rao S/o Ganga Raju
R/o Gajjaram Village, Tallapudi Mandal, West Godavari District
2 Duddupudi Doraji Rao S/o Ganga Raju
R/o Gajjaram Village, Tallapudi Mandal, West Godavari District

..... PETITIONERS

AND

1 The Collector, Eluru, West Godavari District.
2 The Revenue Divisional Officer, Kovvur, West Godavari District
3 The Mandal Revenue Officer, Tallapudi, West Godavari District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus (1) declaring the action of the respondents in issuing the Notice under Section5- A of the Act to conduct enquiry is contrary to the provisions of Land Acquisition Act, (2) declare the proceedings initiated Under the L.A Act in respect of the land in Sy. Nos. 33/7A and 33/7C of Kununuru Vilalge, Tallapudi Mandal, West Godavari district is lapsed by virtue of limitation contemplated under Sections 6 (1) and 11-A of the Act and consequently direct the respondents not to dispossess the petitioners from the above said lands pursuant to the 4(1) Notification dated 23-2-1994 and pass such other

Counsel for the Petitioners: MR.N.SUBBA RAO

Counsel for the Respondent Nos. 1 to 3: GP FOR LAND ACQUISITION

The Court made the following:

O R D E R:

This writ petition is filed seeking a declaration that the notice dated 31-12-2004 issued under Section 5-A of the Land Acquisition Act, 1894 (for short, 'the Act') is contrary to the provisions of the Act and further declaration that the entire proceedings initiated for acquisition in respect of the land in Sy.Nos.33/7A and 33/7C of Kukunuru village, Tallapudi Mandal, West Godavari District stood lapsed and therefore no further steps can be taken by the respondents.

The petitioners claimed to be the owners and possessors of the land situated in Sy.No.33/7A and 33/7C of Kukunuru Village, Tallapudi Mandal, in respect of which a notification under Section 4(1) of the Act was published on 23-02-1994. Simultaneously, declaration under Section 6 of the Act was also published on the same day. Questioning the same, the petitioners filed W.P.No.3977 of 1994 which was disposed of by this Court by order dated 07-08-2000, thereby quashing the declaration under Section 6 of the Act and directing the respondents to conduct enquiry under Section 5-A of the Act. In pursuance thereof, second respondent – Revenue Divisional Officer issued notice under Section 5-A of the Act dated 13-09-2000 calling for objections. The petitioners and other similarly situated persons submitted their objections. Thereafter, the respondents kept quiet and once again issued the impugned notice dated 31-12-2004 under Section 5-A of the Act calling upon the petitioners to appear before the 2nd respondent on 03-01-2005, which is under challenge in this writ petition.

The learned Counsel for the petitioner primarily contended that the impugned notice is unsustainable since the acquisition proceedings initiated under the notification dated 23-02-1994 stood lapsed by virtue of the provisions of Section 11-A of the Act. He contends that the impugned notice is also bad on the ground that the same is not in conformity with the provisions of Section 6(1) of the Act.

The learned Government Pleader, under instructions, states that it is a fact that the impugned notice has been issued only on the basis of the notification dated 23-02-1994 and that thereafter no fresh notification has been published for acquisition of the land in question.

Under Section 11-A of the Act, the Collector shall make award under Section 11 of the Act within a period of two years from the date of publication of the declaration. If no award is made within the said period, the entire proceedings for the acquisition of the land shall lapse. Since admittedly in the case on hand notification under Section 4(1) of the Act was published on 23-02-1994 and no award has been passed so far i.e., even after a period of about ten years, as rightly contended by the learned Counsel for the petitioner, the entire proceedings stood lapsed. That apart, it is also not in dispute that the enquiry under Section 5-A of the Act as directed by this Court in W.P.No.3977 of 1994 is still pending and thus the declaration under Section 6 of the Act could not be made so far. Under clause (ii) of Second proviso to sub-Section (1) of Section 6 of the Act, no declaration under Section 6 of the Act shall be made after the expiry of one year from the date of publication of the notification under Section 4(1) of the Act. Since admittedly the declaration under Section 6 of the Act has not been made within a period of one year as prescribed under clause (ii) of Second proviso to sub-Section (1) of Section 6 of the Act, undoubtedly the impugned notice is not in accordance with law and liable to be set aside on that ground also.

Viewed from any angle, the impugned notice is unsustainable and the same is accordingly set aside and the Writ Petition is disposed of declaring that the entire proceedings for the acquisition of the land

under the Notification dated 23-02-1994 stood lapsed.

However, it is made clear that this shall not preclude the respondents to initiate fresh proceedings if the circumstances so warrant. No costs.

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(G. ROHINI, J)

Date:04-02-2005

Note: Office to issue CC in one week.

(B/o)

ghn

To

1 The Collector, West Godavari District Eluru
2 The Revenue Divisional Officer, Kovvur West Godavari District
3 The Mandal Revenue Officer, Tallapudi West Godavari District 4 Two C.Cs to the G.P. for Land Acquisition, High Court Buildings, Hyderabad (O.U.T.)

5 Two CD copies.